



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
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**Ooko v Republic (Criminal Revision E128 of 2023)  
[2023] KEHC 24407 (KLR) (27 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 24407 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CRIMINAL REVISION E128 OF 2023  
RE ABURILI, J  
OCTOBER 27, 2023**

**BETWEEN**

**BENARD OLIECH OOKO ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(From the original conviction and sentence in High Court Criminal Case No. 34 of 2012 at Homabay)*

**RULING**

1. I have considered the application for resentencing filed on 5<sup>th</sup> October 2023 by the convict Benard Oliech Ooko.
2. The convict was sentenced to death upon being convicted of the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*
3. This was vide Homabay High Court Criminal Case No. 34 of 2012 on 16<sup>th</sup> February 2015.
4. The death sentence was later reduced to twenty (20) years imprisonment vide Kisumu Court of Appeal Criminal Appeal No. 27 of 2015.
5. This was after the death sentence was commuted to life imprisonment.
6. Regrettably, albeit the convict has been in prison close to 18 years' imprisonment, this court is not the appropriate court to hear and determine any matter arising from the criminal case at Homabay.
7. In other words, this court has no Geographical jurisdiction to entertain the application as filed.



8. Accordingly, this file is closed and transferred to Homabay High Court for consideration of the Convict's application filed on 5<sup>th</sup> October 2023, as the application is for resentencing and it is only the trial court that has the power to resentence a convict.
9. The convict who is serving sentence at Shimo La Tewa prison to be notified through prisons authorities.
10. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 27<sup>TH</sup> DAY OF OCTOBER, 2023.**

**R. E. ABURILI**

**JUDGE**

